

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:08-cr-131

v.

HON. JANET T. NEFF

ROY MARSH APPLEWHITE,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

Defendant Roy Marsh Applewhite has filed a motion for modification or reduction of sentence (Dkt 97) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission. The U.S. Probation Department has filed a Sentence Modification Report (Dkt 109) and Defendant has filed a Response (Dkt 116).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

Having fully considered the Sentence Modification Report (Dkt 109) and Defendant's response (Dkt 116), the Court has determined that the defendant is ineligible for a reduction of sentence according to the policy statements of the U.S. Sentencing Commission. Defendant's

designation as an armed career criminal and a career offender did not change his sentencing guideline range.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 97) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

DATED: March 10, 2016

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge